

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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OCT 11 1996

In Re

Amendment of Section 73.202(b)  
of the Commission's Rules, the  
Table of Allotments for  
FM Broadcast Stations  
(Parris Island, South Carolina)

Federal Communications Commission  
Office of Secretary

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To: Chief, Allocations Branch

**PETITION FOR RULEMAKING  
AND ORDER TO SHOW CAUSE**

Simmons Broadcasting Company ("SBC"), by its attorneys, and pursuant to Section 1.401 of the Commission's Rules, 47 C.F.R. § 1.401, hereby petitions the Commission to amend the Table of Allotments for FM Broadcast Stations to substitute Channel 276C3 for Channel 221A at Parris Island, South Carolina and issue an Order to Hampton County Broadcasters, Inc., licensee of Station WBHC(FM), Hampton, South Carolina, to show cause why it should not be required to move from Channel 276A to Channel 221A. In support of this, SBC submits the following:

SBC, the licensee of WLWS(FM) (formerly WOCW(FM)), proposes to move to Channel 276C3. This would necessitate a channel swap with Station WBHC-FM, Hampton, South Carolina, which currently is a 3 kW Class A station on Channel 276. This channel swap would allow WBHC to upgrade to a full 6 kW Class A station on Channel 221. This channel swap would also allow easier upgrades to full 6 kW status of WIGL(FM), Orangeburg, South Carolina,

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WFXA(FM), Augusta, Georgia, and WOMG(FM), Columbia, South Carolina.

As shown in the attached Engineering Statement, this proposal would serve the public interest by increasing the area covered and the population served. Under the proposal, WBHC will increase its area covered by 67% and the population coverage will increase 73%. Likewise, WLWS will increase its coverage by 52% and the population increase will be 43%. Both stations will be able to offer more range and quality of service to more of the public under the channel swap.

This channel swap between WLWS and WBHC should be protected from competing expressions of interest under Section 1.420(g)(3) of the Commission's Rules, 47 C.F.R. § 1.420(g)(3). Section 1.420(g)(3) allows the modification of a station's license to a higher class channel if it is a co-channel or adjacent channel mutually exclusive with the rule making proponent. The Commission has acknowledged that it will consider analogous proposals involving channel substitutions at other communities which would be necessary to create a mutually exclusive relationship required under Section 1.420(g)(3) and determined to consider these "incompatible channel swaps" on a case-by-case basis. This procedure has been followed in other cases of channel substitution.<sup>1</sup>

This proposed channel substitution would be an incompatible channel swap because it

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<sup>1</sup> See Cordova, Alabama, 5 FCC Rcd. 6301 (Policy and Rules Division 1990), where Radio South, Inc. proposed the substitution of channels and a modification of its license to specify a higher class channel. Radio South, the licensee of Station WFFN(FM), Cordova, Alabama, proposed the substitution of Channel 254C3 for Channel 237A at Cordova and modification of the license for Station WFFN accordingly. The Commission determined that the substitution was an example of a mutually exclusive application and so Radio South's proposal should be treated under the provisions of Section 1.420(g)(3) as an "incompatible channel swap." Therefore, the Commission would entertain no other expressions of interest in the use of Radio South's proposed channel. See also Blair, Nebraska, 8 FCC Rcd. 4086 (Allocations Bureau 1993); Hazlehurst, Utica and Vicksburg, Mississippi, 11 FCC Rcd. 2353 (Policy and Rules Division 1996); and, Clinch, Virginia, 6 FCC Rcd. 3732 (1991).

would create a mutually exclusive relationship as required by Section 1.420(g)(3).<sup>2</sup> While Channels 221A and 276C3 are not adjacent, neither Channel 276C3 nor Channel 221A are available for counterproposals by other interested parties, because Channel 276A at Hampton can only be replaced with Channel 221A in order for the upgrade to be possible. And, WLWS at Parris Island can only be upgraded from 221A to 276C3 in this scenario.<sup>3</sup> Therefore, this proposal is an “incompatible channel swap” and should be protected from competing expressions of interest under Section 1.420(g)(3).

SBC stands ready to fulfill its obligation to reimburse WBCH for its expenses incurred in the proposed move. SBC has offered and will give to WBCH its current 5 kW transmitter, its existing 3-bay antenna for Channel 221 and will install the system at the WBCH site. WBCH will not need to relocate its tower site in order to effectuate the channel swap. SBC is also prepared to reimburse Hampton County Broadcasters, Inc. for its reasonable and customary expenses incurred in changing frequencies.

This proposal is clearly in the public interest. WLWS will be able to upgrade its station, as will WBCH. The public will be served by the larger coverage areas for both stations. Additionally, additional upgrades for three other stations will be made possible by this proposal. These advantages are available with no move of the tower site of WBCH and no expense to

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<sup>2</sup> Id.

<sup>3</sup> The Commission gives this example of a mutually exclusive application: A Class A licensee operating on Channel 240A files a request to upgrade on Channel 271C2 and proposes to exchange channels with a licensee in another community currently operating on Channel 270A. It is argued that although Channels 240A and 271C2 are not adjacent, nevertheless Channel 271C2 is not available in the Ashbacker sense for application by other interested parties, because Channel 270A must be replaced with Channel 240A in order for the upgrade to be possible. Only the licensee on Channel 240A could utilize Channel 271C2 in this scenario. See Modification of FM Broadcast Licenses to Higher Class Co-Channel or Adjacent Channels, 60 R.R. 2d 114, 120 (1986).

WBCH. The stations and the public all benefit from this proposal.

Wherefore, the above premises being considered, SBC requests that this Petition for Rulemaking be granted; that Section 73.202(b), the Table of Allotments for FM Broadcast Stations, be amended as follows:

	<u>Present</u>	<u>Proposed</u>
Parris Island, South Carolina	221A	276C3
Hampton, South Carolina	276A (3 kW)	221A (6 kW)

Respectfully submitted,  
SIMMONS BROADCASTING COMPANY

By: Michelle A. McClure  
Alan C. Campbell  
Michelle A. McClure

Its Attorneys

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October 11, 1996

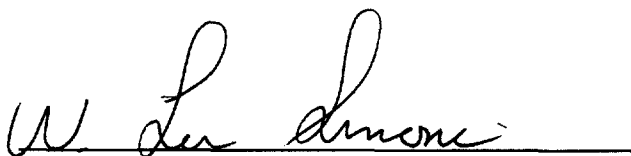
## DECLARATION

I, W. Lee Simmons, hereby declare as follows:

1. I am the President of Simmons Broadcasting Company ("SBC"), licensee of Station WLWS(FM) (formerly WOCW(FM)), Parris Island, South Carolina, currently operating on Channel 221A.

2. I have read the Petition and I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on October 11, 1996.

  
W. Lee Simmons

# W. Lee Simmons & Assoc., Inc.

5 Gracefield Road, Long Cove Club  
Hilton Head Island, S.C. 29928  
803/785-4445

## ENGINEERING STATEMENT TO SUPPORT A CHANGE IN THE TABLE OF ALLOTMENTS

Simmons Broadcasting Company. (SBC) licensee of WLWS (for merly WOCW-FM) Parris Island S.C. Channel 221A, proposes to amend the table of allotments so that it can move to Channel 276C3. This involves a channel swap with Hampton County Broadcasters Inc. licensee of WBHC-FM, Hampton S.C. (Channel 276A). This request is permitted under the Commission's Rules (1.420(g)(3)) which permits two stations to swap channels if they are mutually exclusive with each other even if they are 53 or 54 channels adjacent. If such a situation should exist no competing applications would be accepted.

### ENGINEERING DISCUSSION

Figure 1 is an allocation study from the existing tower site of WBHC-FM showing that channel 221A works as a fully spaced Class A at 6 KW ERP. WBHC-FM currently operates a 3 KW ERP from this site. A full allocation study was performed from this site and no other channels were found to work from this location. The only short spacing is to WLWS on channel 221A. This channel swap would allow WBHC-FM to become a full 6KW Class A. This channel swap would also allow easier upgrades to full 6kw status of WIGL, Orangeburg S.C. WFXA, Augusta, Georgia, and WOMG, Columbia S.C. respectively.

Figure 2 is an allocation study showing a fully spaced Channel 276C3 for WLWS that puts 70dbu coverage over the Parris Island area. The only short spacing is to the existing WBHC-FM Channel 276A in Hampton. Thus, this petition can be filed under the rules.

### AREA AND POPULATION

If the proposal is granted by the Commission the area covered by WBHC-FM will increase from 1,686 Sq. kilometers to 2,533 Sq. kilometers or a 67 percent increase in coverage. The population coverage, under the 60dbu contour, will increase from 19,749 persons, (1990 census) to 27,205 persons or a 73 percent increase.

The area for WLWS will increase from 2,523 sq. kilometers to 4,901 sq. kilometers or an increase of 52 percent. Population will increase from 36,252 to 84,685 or 43 percent under the 60 dbu contour.

**SIMMONS BROADCASTING OBLIGATIONS**

SBC recognizes its obligation to reimburse WBHC-FM for its expenses in this move. To insure that WBHC-FM incurs no expense in the channel swap SBC will give to WBHC-FM its present 5 KW transmitter, its existing 3-bay antenna (on channel 221A at the present time) and will install the system at the WBHC-FM site as part of this proposal. In addition SBC will make available \$5000.00 to WBHC-FM to advertise its move and to re-print, if necessary, letter head, rate cards, etc. As noted, no change will be required in WBHC's transmitter or existing tower.

Therefore SBC request that the Table of Allotments be changed to the following:

Present:  
WBHC-FM Hampton S.C  
Ch 276A (3kw)

Proposed:  
Ch 221 A (6kw)

WLWS Paris Island S.C.  
Ch 221 A

Ch 276 C3

This proposal is in full compliance with the Commissions Rules.

Respectfully Submitted,



W. Lee Simmons

October 7, 1996

WOCW	BLH860102KB	276 C3	FM	POLARIZATION	ERP (KW)	HAAT	RCANSL	<u>FIGURE 2</u>
Parris Island SC	US	LIC			HOR PLN	BM TILT	(METER)	
32.2700	80.4730 (D.MMS)			HORIZONTAL	25.000	0.000	100.0	
0.C. Welch Broadcasting, Inc.				VERTICAL	25.000	0.000	100.0	

THE FOLLOWING CONTOURS ARE CALCULATED USING:  
 ERP= 25.000 (KW) 14.0 (DBK) HAAT= 100.0 (METERS)

CALCULATED HAAT FROM TOPO DATA BASE

INTERFERING	DOMESTIC	AZIMUTH	HAAT	HAAT	CONTOURS (KM)
	DBU KM	DEGREES	(METERS)	(FEET)	70 DBU 60 DBU
CO CHANNEL ( 40.0)	113.6	0.0	99.3	325.9	23.2 39.0
1ST ADJACENT ( 54.0)	60.2	45.0	97.9	321.2	23.0 38.7
2ND ADJACENT ( 80.0)	12.9	90.0	100.7	330.4	23.3 39.2
3RD ADJACENT (100.0)	4.1	135.0	101.0	331.4	23.3 39.2
		180.0	101.1	331.6	23.4 39.3
		225.0	100.0	328.2	23.2 39.1
PROTECTED ( 60.0)	39.1	270.0	100.2	328.6	23.3 39.1
		315.0	99.8	327.4	23.2 39.0
CITY GRADE ( 70.0)	23.2	AVERAGE	100.0	328.1	23.2 39.1
EST SITE ELEVATION : 0.0 m.; 0.0 ft.					
EST RAD CENTER AGL : 101.1 m.; 331.6 ft.					
RAD CENTER A.M.S.L.: 101.1 m.; 331.6 ft.					

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AZIMUTH	FROM	TO	CALL	STS	FILE NUMBER	CITY	ST C	LAT	LONG	REL CHN	ERP (KW)	HAAT	D	I-CON	P-CON	INTE	PROT	REZLT
								(D.MMS)			HORZ	VERT	(M)	A	F5010	F5050	DIST	RSEP
															(KM)	(KM)	(KM)	(KM)
66.4	246.9	WXLY	LIC		BLH901030KC	North Cha	SC A	32.4744	79.5027	3RD 273C	100.H100.V	305					97.1	96.
197.1	16.7	WIVYFM	LIC		BLH860904KA	Jacksonvi	FL A	30.1634	81.3353	1ST 275C	100.B100.B	309					252.0	176.
270.0	89.4	WPMX	APP		BMPH960124IG	Statesbor	GA A	32.2643	81.5807	1ST 275C3	25.H 25.V	100					110.7	99.
**COMMENT**Amended 960530																		
270.0	89.4	WPMX	CP		BMPH910221IF	Statesbor	GA A	32.2643	81.5805	1ST 275C3	25.H 25.V	100					110.6	99.
267.3	86.7		USE			Statesbor	GA A	32.2400	81.5500	1ST 275C3	H V						106.0	99.
**COMMENT**Site restricted-Effective 11-23-90- Reserved**DOCKET**90-308																		
356.8	176.7		USE			Orangebur	SC A	33.2857	80.5142	1ST 275A	H V						114.7	89.
**WINDOW OPEN / / CLOSE 07/07/86 **COMMENT**13 - SITE RESTRICTED **DOCKET**84-231																		
352.8	172.7	WIGL	LIC		BLH871223KE	Orangebur	SC A	33.2753	80.5642	1ST 275A	3.00H3.00V	100					113.4	89.
324.7	144.5	WBHCFM	LIC		BLH870323IA	Hampton	SC A	32.5039	81.0728	CO 276A	3.00H3.00V	100					53.7	142.
51.3	232.4		USE			Surfside	SC A	33.4300	78.5200	CO 276C3	H V						228.1	153.
**COMMENT**Effective 3-3-92-RSVD For WYAK Per 089-327																		
48.2	229.2	WYAKFM	APP		BPH951129IA	Surfside	SC A	33.4322	79.0343	CO 276C3	11.5H11.5V	148E					214.5	153.
52.0	233.0	WYAKFM	LIC		BLH930405KC	Surfside	SC A	33.3432	79.0229	CO 276C3	12.5H12.5V	1000					205.7	153.
317.9	137.3	WFXAFM	LIC		BLH4096	Augusta	GA A	33.3000	81.5603	CO 276A	3.00H3.00V	91					158.0	142.
353.8	173.7	WONG	LIC		BMLH900606KE	Columbia	SC A	34.0305	81.0007	CO 276A	3.3H 3.3V	91					178.7	142.
218.1	37.5	WFGA	LIC		BLH881102KB	Waycross	GA A	31.0922	81.5819	1ST 277C	100.H100.V	303					181.9	176.
65.2	245.7		USE			Charlesto	SC A	32.4904	79.5008	2ND 278C1	H V						98.6	76.
**COMMENT**Allotment downgraded from Class C to C1 by cancellation of BPH**COMMENT**																		
65.2	245.7	WEZL	LIC		BLH811208AA	Charlesto	SC A	32.4904	79.5008	2ND 278C1	100.B100.B	201					98.6	76.

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\*\*\* NORMAL TERMINATION FM CHANNEL STUDY NO. 1 \*\*\* 108 FM RECORDS WERE CONSIDERED, OF WHICH 16 WERE PRINTED ABOVE \*\*\*



WBHCFM	8LH870323IA	221 A	FM	POLARIZATION	ERP (KW)	HAAT	RCANSL	<u>FIGURE 1</u>
Hampton SC	US		LIC		HOR PLN	BM TILT	(METER)	
32.5039	81.0728 (D.NMSS)			HORIZONTAL	6.000	0.000	100.0	
Hampton County Broadcasters, Inc.				VERTICAL	6.000	0.000	100.0	

THE FOLLOWING CONTOURS ARE CALCULATED USING:  
 ERP= 6.000 (KW) 7.8 (DBK) HAAT= 100.3 (METERS)

CALCULATED HAAT FROM TOPO DATA BASE

INTERFERING	DOMESTIC	AZIMUTH	HAAT	HAAT	CONTOURS (KM)
	DBU KM	DEGREES	(METERS)	(FEET)	70 DBU 60 DBU
CO CHANNEL ( 40.0)	86.7	0.0	98.1	321.8	16.0 28.0
1ST ADJACENT ( 54.0)	43.8	45.0	100.7	330.4	16.2 28.4
2ND ADJACENT ( 80.0)	9.1	90.0	102.8	337.4	16.4 28.7
3RD ADJACENT (100.0)	2.8	135.0	114.1	374.5	17.4 30.1
		180.0	98.5	323.3	16.0 28.1
		225.0	97.4	319.5	15.9 27.9
PROTECTED ( 60.0)	28.3	270.0	94.0	308.5	15.6 27.5
		315.0	97.0	318.2	15.9 27.9
CITY GRADE ( 70.0)	16.2	AVERAGE	100.3	329.2	16.2 28.3

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AZIMUTH	FROM	TO	CALL	STS	FILE NUMBER	CITY	ST C	LAT	LONG	REL CHN	ERP (KW)	HAAT D	I-CON	P-CON	INTE	PROT	REZLT
								(D.NMSS)			HORZ VERT	(M)	A F5010	F5050	DIST	RSEP	RSEP IR IC
													(KM)	(KM)	(KM)	(KM)	(KM)
79.1	259.7	WKCL	LIC		BLED900227KA	Ladson	SC A	33.0024	80.0517	3RD 218C1	100.H100.V	93			98.6	75.	
233.1	52.8	WVGS	LIC		BLED851024KD	Statesbor	GA A	32.2532	81.4658	1ST 220A	1.00H1.00V	49			77.3	72.	C
137.1	317.4	WOCW	LIC		BLH860102KB	Parris Is	SC A	32.2137	80.3537	C0 221A	3.00H3.00V	88			73.2	115.	S
64.2	245.4	WJYR	CP		BPH960320ID	Myrtle Be	SC A	33.4317	78.5344	C0 221C2	50.0H50.0V	1070			229.3	166.	
64.0	245.2	WJYR	LIC		BLH940819KB	Myrtle Be	SC A	33.4437	78.5130	C0 221C2	50.0H50.0V	970			233.5	166.	
64.5	245.7		USE			Myrtle Be	SC A	33.4256	78.5256	C0 221C2	H V				230.2	166.	
					**COMMENT**Site Restricted-Effective 4-12-90-RSVD For W**DOCKET**88-572 **												
4.7	184.7	WWBD	LIC		BLH850605KA	Bamberg	SC A	33.1850	81.0443	C0 221A	3.00H3.00V	94			52.3	115.	S
					**COMMENT**To channel 239A Per D94-40												
					**COMMENT**												
279.4	98.7	WPEHFM	LIC		BLH7862	Louisvill	GA A	33.0048	82.2333	C0 221A	3.00H3.00V	91			120.1	115.	C
335.6	155.2	WJESFM	LIC		BLH870618KA	Saluda	SC A	34.0248	81.4701	C0 221A	3.00H3.00V	100			146.8	115.	
191.1	11.0	WSKX	LIC		BLH911029KB	Hinesvill	GA A	31.4137	81.2327	1ST 222C2	50.H 50.V	147			130.0	106.	
200.9	20.7		USE			Hinesvill	GA A	31.5225	81.3337	1ST 222C2	H V				115.2	106.	
					**COMMENT**Site Restricted-Effective 4-9-90-Rsvd for WXLQ per DB7-403												
					**COMMENT**												
53.7	234.3	WHLZ	LIC		BLH860312KD	Manning	SC A	33.3205	79.5915	2ND 223C	100.8100.8	357			130.8	95.	

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\*\*\*\* NORMAL TERMINATION FM CHANNEL STUDY NO. 3 \*\*\*\* 102 FM RECORDS WERE CONSIDERED, OF WHICH 12 WERE PRINTED ABOVE \*\*\*\*

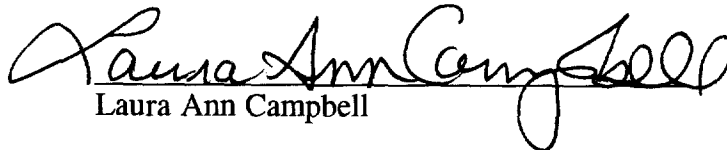
**CERTIFICATE OF SERVICE**

I, Laura Ann Campbell, hereby certify that on this 11th day of October, 1996, copies of the foregoing "Petition for Rulemaking and Order to Show Cause" have been served by hand delivery or first class mail, postage prepaid, upon the following:

Linda Blair, Chief\*  
Audio Service Division  
Mass Media Bureau  
Federal Communications Commission  
1919 M Street, N.W., Room 302  
Washington, D.C. 20554

John A. Karousos, Chief\*  
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Laura Ann Campbell

\* denotes hand delivery